

**REMARKS**

Entry of the foregoing and reconsideration of the subject application are respectfully requested in light of the amendments above and the comments which follow.

As correctly noted in the Office Action Summary, claims 1-34 were pending. By the present response, claims 1, 4, 5, 14, 31 and 33 have been amended. Thus, upon entry of the present response, claims 1-34 remain pending and await further consideration on the merits.

Support for the foregoing amendments can be found, for example, in at least the following locations in the original disclosure: the original claims and the figures, 1A-1D and 2 and the specification, paragraphs [0012], [0033], [0034], and [0038].

Entry of the foregoing is appropriate pursuant to 37 C.F.R. §1.116 for at least the following reasons. First, the amendments address the new grounds of rejection at paragraph 2-3, thereby reducing the number of issues present upon appeal. Second, the amendments raise no new issues that would necessitate further search and/or substantive reexamination. Third, the amendments clearly overcome the grounds of rejection.

***ALLOWABLE SUBJECT MATTER***

Applicant notes with appreciation the indication that claims 21-26 are allowed and the indication that claims 4, 5 and 27-34 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. By the present response, claims 4, 5, 31 and 33 have been rewritten in

independent form. Thus, independent claims 4, 5, 21, 31 and 33 and their dependent claims 22-30, 32, and 34 are allowable.

### **OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTIONS**

Claims 1-3 and 6 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 14 of copending Application No. 10/084,459 in view of U.S. Patent No. 4,735,406 to Weber (hereafter "*Weber*") on the grounds set forth in paragraph 3 of the Official Action. This rejection is respectfully traversed.

Claim 1 is an independent claim and claims 2-3 and 6 depend from claim 1. Applicant has amended claim 1 to clarify that the collecting device in this claim is a reciprocating pivotable collecting device. As noted in the Official Action, copending Application No. 10/084,459 does not disclose a pivotable collecting device. However, the disclosure in *Weber*, relied upon here for allegedly showing a pivotable collecting device, does not disclose, teach or suggest a reciprocating pivotable collecting device as presently claimed in claim 1.

Rather, *Weber*, to the extent he shows pivoting, only shows motion of the saddle-like carriers 3 in one direction (see arrow indicating clockwise rotation of device in Figure 3). Further, due to the interoperability of the saddle-like carriers 3 with, among other features, the rotatable drum-shaped opening or spreading devices 28, the disclosure in *Weber* does not disclose teach or suggest reciprocating motion for the saddle-like carriers 3.

From the above, Applicant respectfully traverses the double patenting rejection and requests withdrawal of the rejection.

**CLAIM REJECTIONS UNDER 35 U.S.C. §102**

Claims 1-3, 6, 14, 15 and 18-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,735,406 to Weber (hereafter "*Weber*") on the grounds set forth in paragraph 4 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

Claim 1 and 14 are independent claims and the remaining claims in this rejection depend from either claim 1 or claim 14. Applicant has amended claim 1 and claim 14 to clarify that the collecting device in these claims is a reciprocating pivotable collecting device. However, the disclosure in *Weber*, relied upon here for allegedly showing a pivotable collecting device, does not disclose, teach or suggest a reciprocating pivotable collecting device as presently claimed in claims 1 and 14.

Rather, *Weber*, to the extent he shows pivoting, only shows motion of the saddle-like carriers 3 in one direction (see arrow indicating clockwise rotation of device in Figure 3). Further, due to the interoperability of the saddle-like carriers 3 with, among other features, the rotatable drum-shaped opening or spreading devices 28, the disclosure in *Weber* does not disclose teach or suggest reciprocating motion for the saddle-like carriers 3.

Thus, when the disclosure in *Weber* is compared to the claims of the present application at issue here, the *Weber* patent does not disclose, teach or suggest the claimed arrangement and features including a reciprocating pivotable collecting device. In light of at least this difference, Applicant respectfully submits that an anticipatory rejection is improper since *Weber* does not disclose the invention as claimed

The remaining rejected claims not directly discussed here depend from independent claims 1 or 14 and are therefore allowable over the cited references for at least the same reasons as the independent claims from which they depend. Withdrawal of the rejection of the dependent claims is respectfully requested

***CLAIM REJECTIONS UNDER 35 U.S.C. §103***

Claims 1 and 7-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,099,225 to Allan et al. (hereafter "*Allan et al.*") in view of *Weber* on the grounds set forth in paragraph 5 of the Official Action. For at least the reasons noted below, this rejection should be withdrawn.

Claim 1 and 14 are independent claims and the remaining claims in this rejection depend from either claim 1 or claim 14. Applicant has amended claim 1 and claim 14 to clarify that the collecting device in these claims is a reciprocating pivotable collecting device. As noted in the Official Action, *Allen et al.* does not disclose a pivotable collecting device and a reciprocating transferring device. Thus, *Weber* is cited for allegedly disclosing both a pivotable collecting device and a reciprocating transferring device.

However, the disclosure in *Weber* does not disclose, teach or suggest a reciprocating pivotable collecting device as presently claimed in claims 1 and 14. Rather, *Weber*, to the extent he shows pivoting, only shows motion of the saddle-like carriers 3 in one direction (see arrow indicating clockwise rotation of device in Figure 3). Further, due to the interoperability of the saddle-like carriers 3 with, among other features, the rotatable drum-shaped opening or spreading devices 28, the disclosure

in *Weber* does not disclose teach or suggest reciprocating motion for the saddle-like carriers 3.

Thus, the combination of *Allen et al.* and *Weber* does not teach or suggest all of the claim limitations as required or an obviousness rejection. See M.P.E.P. §§2143-2143.03. Accordingly, the rejection is improper and should be withdrawn.

The remaining rejected claims not directly discussed here depend from independent claims 1 or 14 and are therefore allowable over the cited references for at least the same reasons as the independent claims from which they depend. Withdrawal of the rejection of the dependent claims is respectfully requested.

#### **CONCLUSION**

From the foregoing, further and favorable action in the form of a Notice of Allowance is earnestly solicited. Should the Examiner feel that any issues remain, it is requested that the undersigned be contacted so that any such issues may be adequately addressed and prosecution of the instant application expedited.

Respectfully submitted,

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